

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

JAVIER TAMES, Individually and on behalf of all others similarly situated, Plaintiff,

Plaintiff,

v.

DESARROLLADORA HOMEX, S.A.B.  
DE C.V. a/k/a HOMEX DEVELOPMENT  
CORP., GERARDO DE NICOLÁS  
GUTIÉRREZ, and CARLOS  
MOCTEZUMA VELASCO,

Defendants.

Case No.: 2:17-cv-01416-ADS-ARL

**NOTICE OF FILING OF  
RELATED CASES**

**PLEASE TAKE NOTICE** that, on October 20, 2017, proposed Lead Plaintiff Jose Acosta (“Acosta”), by and through his counsel, filed his Complaint for Violation of the Federal Securities Laws (the “*Acosta Complaint*”) in the United States District Court for the Southern District of California in an action entitled *Acosta v. Desarrolladora Homex et al.*, Case No. 3:17-cv-02163-BEN-WVG (S.D. Cal.) (the “*Acosta Action*”). Acosta respectfully submits this notice to apprise the Court of the commencement of the *Acosta Action* and actions commenced by the United States Securities and Exchange Commission (“SEC”) in the United States District Court for the Southern District of California against the named defendants in the above-captioned action (the “*Tames Action*”).

The Class Action Complaint for Violation of the Federal Securities Laws filed in the *Tames Action* (the “*Tames Complaint*” (ECF No. 1)) seeks to recover damages on behalf of all persons and entities, other than Defendants, who purchased or otherwise acquired the publicly traded American Depository Shares of Homex between April 30, 2012 and May 5, 2016, both dates inclusive. The *Acosta Complaint* also seeks to recover damages for alleged violations of the federal

securities during an identical class period and on behalf of the securities at issue in the *Tames* Action. See *Tames* Complaint at ¶ 1; *Acosta* Complaint at ¶ 1. The *Tames* Action and the *Acosta* Action (collectively, the “Actions”) present similar factual and legal issues, involve the same subject matter, and are based on the same wrongful course of conduct. Additionally, the Actions each name as defendants Desarrolladora Homex, S.A.B. de C.V. (“Homex”), Gerardo de Nicolás Gutiérrez (“de Nicolás”), and Carlos Moctezuma Velasco (“Moctezuma”). Because they arise from the same facts and circumstances and involve the same subject matter, the same discovery and similar class certification issues will be relevant to these related Actions.

As alleged in the *Tames* Complaint (id. at ¶¶ 31-32), on March 3, 2017, the SEC filed a complaint in the United States District Court for the Southern District of California against Homex in an action entitled *Securities and Exchange Commission v. Desarrolladora Homex, S.A.B. de C.V.*, Case No. 3:17-cv-00432-L-WVG (S.D. Cal.) (the “*Homex* Action”). The complaint filed in the *Homex* Action (the “*Homex* Complaint” (ECF No. 1)) alleges that Homex primarily perpetrated accounting fraud by recording fictitious home sales and the related revenue in the company’s financial statements filed with the SEC. See generally id. The allegations in the *Homex* Complaint serves as one of bases that plaintiffs have alleged in support of establishing defendants’ violations of the federal securities laws as detailed in the *Tames* Complaint (see id. at ¶¶ 31-32) and the *Acosta* Complaint (see e.g. id. at ¶ 1). Following the district court’s March 28, 2017 order approving the settlement between the SEC and Homex, the *Homex* Action was terminated. See *Final Judgment as to Defendant Desarrolladora Homex, S.A.B. de C.V., Homex Action*, ECF No. 9.

On October 11, 2017, the SEC instituted another proceeding stemming from the same alleged accounting fraud in the *Homex* Action in the United States District Court for the Southern

District of California entitled *Securities and Exchange Commission v. de Nicolás Gutierrez et al.*, Case No. 3:17-cv-02086-JHA-JLB (S.D. Cal.) (the “*de Nicolás Action*”). The SEC’s complaint in the *de Nicolás Action* (the “*de Nicolás Complaint*”) alleges violations of the federal securities laws against Homex’s: former chief executive officer, de Nicolás; former chief financial officer, Moctezuma; former Controller and Administrative and Accounting Officer, Ramón Lafarga Bátiz (“Lafarga”); and a former manager, Noe Corrales Rye. *See de Nicolás Complaint.*

The *de Nicolás Complaint* sets forth in substantial detail the investigation undertaken by the SEC concerning the alleged accounting fraud by Homex’s former executives and managers. *See generally de Nicolás Complaint.* In the *de Nicolás Complaint*, the SEC discusses materials it received as part of its investigation in support of establishing violations of the federal securities laws by the same individuals named as defendants in the Actions. The recently disclosed information in *de Nicolás Complaint* currently serves as a material portion of the allegations raised in the *Acosta Action*. Accordingly, the information disclosed in the *de Nicolás Complaint*, as well as any additional information that will likely be publicly disclosed through the course of the litigation, has and will continue to serve as material portion of the allegations in the Actions.

Notably, the *Tames Action*, the *Acosta Action*, the *de Nicolás Action*, and the *Homex Action* all raise questions of federal law stemming from alleged violations of the federal securities as result of the false and/or misleading statements contained in Homex’s SEC filings that were prepared and issued as a result of a fraudulent scheme that originated from Homex’s corporate headquarters in Culiacán, Sinaloa, México. Additionally, each of the complaints in the aforementioned actions properly claim venue due defendants’ acts or course of business entered or occurred within their respective districts. Further, the United States District Court for the Southern District of California is the federal district proximate to Homex’s corporate headquarters

in Culiacán, Sinaloa, México, the suspected residences of its former executives and managers (all citizens of Mexico who worked at Homex's corporate headquarters), and Homex's operations in the Baja California Peninsula.

Acosta filed his motion to be appointed lead plaintiff in this proceeding on May 15, 2017 (*Tames* Action, ECF No. 8). This motion is unopposed. Given Acosta's filing of the *Acosta* Complaint, the significance of the *de Nicolás* Action to the Action, and the materiality of the allegations contained in the *Homex* and *de Nicolás* Complaints to the Actions, Acosta respectfully submits this notice to alert the Court of each of the aforementioned actions and their significance and relatedness to the *Tames* Action.

Dated: October 24, 2017

Respectfully submitted

**LEVI & KORSINSKY, LLP**

/s/ Nicholas I. Porritt  
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*Counsel for Proposed Lead Plaintiff Jose Acosta  
and Proposed Counsel for the Class*

**CERTIFICATE OF SERVICE**

I, Nicholas I. Porritt, hereby certify that on October 24, 2017, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the registered participants as identified on the Notice of Electronic Filing.

*/s/Nicholas I. Porritt*

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Nicholas I. Porritt